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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,824	11/07/2000	Edward Howorka	P/3331-111	1358

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EXAMINER

BEACH, THOMAS A

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/707,824	HOWORKA, EDWARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas A Beach	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on amendment filed 05/20/04.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 9-60 is/are pending in the application.  
4a) Of the above claim(s) 37-60 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 9-36 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Election/Restrictions***

1. Newly submitted claims 37-60 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: as noted in the amendment, claim 37-60 are directed to the indication to first trader is that at least a portion of his quote can be accepted by, in claim 1 for example, more than one but less than all of the first trader's trading counter parties.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 37-60 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

2. Claims 9-15, 17-25 and 27-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Togher et al 5,375,055. Togher shows a process for displaying quotes on a trader screen in an automated system that includes a plurality of traders with some having bilateral credit with one another (those being trading counterparties) displaying a quote by a first trader and providing indication of the quote being accepted by more than one but less than all of the counterparties (col 3, lines 1-21, figures 2-4). Togher shows that the first trader's trading counterparties can accept the first traders' quote if it is the

best available (abstract, col.3 lines 1-21; claims 10, 19, 21 and 32) if it is the best price available (claims 11 and 22) or equal in price to another quote that is first in time relative to another quote (col. 13, line 55-59; claims 12 and 23). Togher shows the traders having bilateral credit with one another has an evolving credit status that is determined in real time in order to remain a trading counter party (col. 1, lines 55-68; claim 13). Togher shows the determination of the number of trading counterparties, determining a percentage who can accept the quote and providing the indication to the first trader when the percentage is greater than or equal to a predetermined percentage (col. 12, lines 31-51; claims 14 and 25) and determining the number of counterparties who can accept the quote and comparing that number to the total number (abstract; claim 15) where the trading floor contain one or more individuals and the trading floor grants credit to the other trading floor (col. 4, lines 12-36; claims 17 and 30) and the traders are individuals (figure 5; claims 18 and 31). Togher shows, in figures 2-4, that screens are used to graphically display data in specific fields utilizing the EBS system such as calculated percentages (claim 27-29).

### ***Claim Rejections - 35 USC § 103***

3. Claims 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togher et al 5,375,055 alone. As concern claims 16and 26, the percentage who can accept the quote and providing the indication to the first trader when the percentage is greater than or equal to a predetermined percentage of 25% is considered obvious to one of ordinary skill in the art since the examiner takes Official Notice that this particular

percentage is arbitrary and requires on routine skill in that art to arrive and this percentage.

***Response to Arguments***

4. Applicant's arguments with respect to claims 9-36 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Application/Control Number: 09/707,824  
Art Unit: 3671

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Thomas A. Beach

August 9, 2004

  
Thomas B. Will  
Supervisory Patent Examiner  
Group 3600